



09-16-04

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/828,561 | 04/21/2004 | Rodolfo Fernandez JR. | |

RODOLFO FERNANDEZ JR.
308 FULTON STREET
KINGS MOUNTAIN, NC 28086

CONFIRMATION NO. 6167

FORMALITIES LETTER



OC000000013307484

Date Mailed: 07/22/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The compact disc(s) submitted fail to comply with 37 CFR 1.52(e) in that they contain non-ASCII files. A new duplicate set of compact discs with only ASCII files is required. Any replacement compact disc submitted should be accompanied by a certification as required by 37 CFR 1.52(e) that each disc of a duplicate set is identical to the other disc of the set. If a directory of the disc could be printed, it is attached and non-ASCII files are marked on the directory listing.
- The compact disc(s) submitted fail to comply with 37 CFR 1.52(e) in that only a single copy of each disc was provided. A duplicate copy of each compact disc must be provided on Compact Disc-Read Only Memory (CD-ROM) or a Compact Disc-Recordable (CD-R) media. Any replacement compact discs submitted should be accompanied by a certification as required by 37 CFR 1.52(e) that each disc of a duplicate set is identical to the other disc of the set.
- This application is objected to because it contains a data file on CD-ROM/CD-R, however, the transmittal letter does not list for each compact disc, the machine format, the operating system compatibility, a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc as required by 37 CFR 1.52(e)(3). A statement listing the required information is required. Additionally, the disc(s) is not identified in the paper portion of the specification with a listing of all of the files contained on the disc. When portions of an application are contained on a compact disc, the paper portion of the specification must identify the compact disc(s) and list the files including name, file size, and creation date on each of the compact discs. See 37 CFR 1.52(e). Applicant(s) are required to amend the specification to identify each disc and the files contained on the disc including the file name, file size, and file creation date.
- This application contains compact disc(s) as part of the originally filed subject matter or as an amendment, however the information contained on the compact disc(s) is not one of the types of information that may be submitted on compact disc(s). (see 37 CFR 1.52(e)).

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART I - ATTORNEY/APPLICANT COPY.



September 13, 2004

APPLICATION NUMBER: 10/828,561

FILING DATE: 04/21/2004

APPLICANT: RODOLFO FERNANDEZ JR.

CONFIRMATION No. 6167

RE: FORMALITIES LETTER "OC000000013307484"

MAILED: 07/22/2004

**SECOND RESPONSE TO: NOTICE TO FILE MISSING PARTS OF
NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(b) (Attached)**

According to the fourth paragraph (highlighted by the applicant) in the Notice of the reference, the information contained on the compact disc(s) is not one of the types of information that may be submitted on compact disc(s) (as in 37 CFR 1.52(e)).

Therefore, the applicant recognizes that the compact disc was unduly submitted by mistake and respectfully requests it to be discarded.

In addition, the applicant respectfully requests either the amendment of the "Utility Patent Application Transmittal" form, deleting the check mark at section 7 (CD-ROM), or its replacement with the attached amended form.

Please, note that the first response (copy attached) to your notice mailed on 7/22/2004 was sent on July the 28th of 2004, but I have not received any conclusive answer about this matter so far.

Furthermore, I called the Initial Patent Examination Division on September the 9th of 2004 to inquire about this issue and I was told that such information had not been related to my patent application yet.

I would like to kindly request some information about the status of my patent application, specifically regarding this matter or instructions on the procedure to find said information myself.

Also enclosed, please, find a prepaid envelope addressed to me, that I hope could be useful.

I can be reached by phone or facsimile at (704) 730-8971 and by E-mail at rfern2@carolina.rr.com.

Respectfully,

Rodolfo Fernandez JR.



PTO/SB/05 (08-03)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**UTILITY
PATENT APPLICATION
TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.

First Inventor

Title

Express Mail Label No.

RODOLFO FERNANDEZ

COMBINED PORTABLE FAN-
CANDY HOLDER TOY**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO:

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☒ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages **29**]
(preferred arrangement set forth below)
- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table,
or a computer program listing appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets **17**]
5. Oath or Declaration [Total Sheets **2**]
a. ☒ Newly executed (original or copy)
b. ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
i. ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s)
name in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).
6. ☒ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
a. ☐ Computer Readable Form (CRF)
b. Specification Sequence Listing on:
i. ☐ CD-ROM or CD-R (2 copies); or
ii. ☐ Paper
c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement [Power of Attorney]
(when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure [Copies of IDS Citations]
Statement (IDS)/PTO-1449
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122
(b)(2)(B)(i). Applicant must attach form PTO/SB/35
or its equivalent.
17. ☒ Other: PAYMENT CHECK No. **1496**
AMOUNT PAID \$ **457.00**

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.:

Prior application information:

Examiner

Art Unit:

For CONTINUATION OF DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS☐ Customer Number: OR ☒ Correspondence address below

| | | | | | |
|-------------------|---|-----------|-----------------------------------|----------|----------------|
| Name | RODOLFO FERNANDEZ (EMAIL: rodmar3841@aol.com) | | | | |
| Address | 308 FULTON STREET | | | | |
| City | KINGS MOUNTAIN | State | NORTH CAROLINA | Zip Code | 28086 |
| Country | UNITED STATES OF AMERICA | Telephone | (704) 730-8971 | Fax | (704) 730-8971 |
| Name (Print/Type) | RODOLFO FERNANDEZ | | Registration No. (Attorney/Agent) | N/A | |
| Signature | | | Date | | |

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

July 28, 2004



APPLICATION No. 10/828,561; FILING DATE: 04/21/2004; CONFIRMATION No. 6167

Title: Combined Portable Fan Candy Holder Author: Rodolfo Fernandez Jr.

FORMALITIES LETTER: OC000000013307484 DATE MAILED: 07/22/2004

REPLY TO: NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION, FILED UNDER 37CFR 1.53(b)

SIR:

The author respectfully responds to the notice of the reference (enclosed) as follows:

1.- According to PATENT RULE 37CFR 1.52 (e) (1), regarding *Electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application or reexamination proceeding*, the following documents may be submitted to the Office on a compact disc in compliance with said paragraph:

- (i) A computer program listing (see paragraph 1.96);
- (ii) A "Sequence Listing" (submitted under paragraph 1.821(c)); or
- (iii) A table (according to paragraph 1.58) that has more than 50 pages of text.

(Underlined by the author)

2.- The compact disc submitted with the filing documents of the patent application of the reference does not contain any information of the kind listed above in 1.52 (e) (1), and hence, does not comply with the conditions to be admitted (not required) as part of the permanent records of the USPTO in the file of a patent application, since it is neither a computer program listing, or a "Sequence Listing", nor a table.

3.- The author's intention submitting said compact disc, was to provide in good faith an additional, and not required at all, material to facilitate the examination procedures.

4.- Since, apparently, said compact disc as submitted is not useful and, what is worst, misled the procedures, the author respectfully requests it to be discarded as not required as part of the permanent record in the file of the present application proceeding.

5.- For any further clarification, in addition to the formal contact procedures, the author may be contacted through E-mail to the following address: rodmar3841@aol.com.

Respectfully submitted,

Rodolfo Fernandez Jr.